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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FRANCISCO CERVANTES, et al.,) Case No.: C 08-3817 JW (PVT)
Plaintiffs,)
v.)
LIU CHENG, INC. dba MANDARIN)
GOURMENT, et al.,)
Defendants.)

)

**ORDER GRANTING PLAINTIFFS'
MOTIONS TO COMPEL FURTHER
RESPONSES TO INTERROGATORIES AND
PRODUCTION OF DOCUMENTS**

On September 3, 2009, the court issued an interim order regarding Plaintiffs' motion to compel answers to interrogatories and production of documents. The parties have completed their meet and confer, Defendant provided some further responses and documents, and the parties have submitted their supplemental briefing. Having reviewed the papers submitted by the parties, the court finds it appropriate to issue this order without oral argument. Based on the briefs and declarations submitted by the parties,

IT IS HEREBY ORDERED that Plaintiffs' motion to compel is GRANTED as to Document Request No. 1. Timecards and other payroll records are relevant to Plaintiffs' claims for unpaid overtime under the Fair Labor Standards Act, 29 U.S.C.A. section 201 et seq. ("FLSA"). In its opposition papers, Defendant fails to explain or justify its failure to produce all documents responsive to this Document Request. If Defendant does not have any time records for any portion

1 of relevant time period from August 11, 2004 through the present, Defendant shall so state in a
2 verified response.

3 IT IS FURTHER ORDERED that Plaintiffs' motion to compel is GRANTED as to
4 Interrogatory No. 2. However, Defendant may elect to provide complete time records for each
5 Plaintiff from August 11, 2004 through the present instead of writing out all the days and hours each
6 Plaintiff worked. If Defendant does not have time records for any portion of relevant time period,
7 and does not now have any information regarding how many hours a Plaintiff actually worked during
8 that period of time, Defendant shall so state in its verified response.

9 IT IS FURTHER ORDERED that Plaintiffs' motion to compel is GRANTED as to
10 Interrogatory No. 4, except that Defendant need only state the amount of gross pay Defendant paid
11 each Plaintiff for each pay period from August 11, 2004 through the present. The amount Defendant
12 paid each Plaintiff for each pay period is relevant to Plaintiffs' claims for unpaid overtime under the
13 FLSA. Defendant has not shown that responding to this interrogatory imposes an undue burden on
14 it. If Defendant does not now have any information regarding the gross pay it paid a Plaintiff for
15 any particular pay periods during that time frame, Defendant shall so state in its verified response.

16 IT IS FURTHER ORDERED that Plaintiffs' motion to compel is GRANTED as to
17 Interrogatory No. 5. Information regarding how Defendant calculated Plaintiffs' pay is relevant to
18 Plaintiffs' claims for unpaid overtime under the FLSA. Defendant has not shown that responding to
19 this interrogatory imposes an undue burden on it.

20 IT IS FURTHER ORDERED that Plaintiffs' motion to compel is GRANTED as to
21 Document Request No. 2. Payroll records and cash payment records are relevant to Plaintiffs'
22 claims for unpaid overtime under the FLSA, and Defendant has not explained or justified its failure
23 to produce all documents responsive to this Document Request.

24 IT IS FURTHER ORDERED that Plaintiffs' motion to compel is GRANTED as to
25 Interrogatory No. 20. Defendant's annual gross revenue is relevant to the issue of whether
26 Defendant is subject to the requirements of FOIA. Defendant's reference to various documents it
27 produced is insufficient, because the interrogatory directs Defendant to include amounts not reported
28 in its accounting books or tax returns. Only a written answer to this interrogatory will inform

1 Plaintiffs whether or not Defendant had any additional revenue that is not included in those records.

2 IT IS FURTHER ORDERED that Plaintiffs' motion to compel is GRANTED as to
3 Document Request No. 9. Defendant's tax returns are relevant to the issue of whether Defendant is
4 subject to the requirements of FOIA. Defendant has not explained or justified its production of tax
5 returns for only three of the four years requested (2008, 2007 and 2006, but not 2005). Thus,
6 Defendant must produce its tax returns for 2005.

7 IT IS FURTHER ORDERED that Defendant shall comply with this order no later than
8 November 20, 2009.

9 Dated: 11/6/09

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11 PATRICIA V. TRUMBULL
12 United States Magistrate Judge
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